IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4299 of 1985

For Approval and Signature:

HON'BLE DR.JUSTICE J.N.BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

GENERAL SECRETARY
MAHAGUJARAT ENGINEERING AND
GENERAL SECRETARY
GENERAL WORKERS UNION

Versus

CHIEF SECRETARY
STATE OF GUJARAT AND ORS

Appearance:
1. Special Civil Application No. 4299 of 1985
MR PH PATHAK for the Petitioner
MR. LB DABHI, ASSISTANT GOVERNMENT PLEADER
for Respondent Nos. 1-2
MR KS NANAVATI for Respondent Nos. 3-6

CORAM : HON'BLE DR.JUSTICE J.N.BHATT

Date of decision: 23/07/2004

ORAL JUDGEMENT

1. During the course of hearing, it was submitted that the Division Bench of this Court, in a similar petition, had directed the petitioners to approach the Industrial Tribunal by way of reference under the provisions of the Industrial Disputes Act, 1947. It is not, also, disputed that almost similar set of facts are involved in the present petition. In some other petitions, also, such orders are passed, relegating the petitioners to the legal redressal under the Industrial Disputes Act, 1947.

2. Apart from that, after the perusal of the dispute from the petition as well as the affidavit-in-reply, there are disputed questions of facts and it will, also, be interesting to note that in Special Civil Application No. 4003 of 1983, upon consent-terms, disputes had been agreed to be referred to the Arbitrator and this Court, by passing order, upon consent terms, directed the Arbitrator to decide as to how many and which workmen were working in four processes, namely, (i) Packing and Bagaging; (ii) Cleaning; (iii) Feeding Hopper, and (iv) Materials Handling, through the Contractors in Saurashtra Chemicals, Porbandar and who were to be taken on the Company's roll. Pursuant to the said consent-terms, the Government had referred the dispute under Section 10 of the Industries Disputes Act, 1947 to Mr.I.G.Thakore by a notification published on April 12, 1983.

3. Both the Unions represented all the workmen employed by the concerned Contractors before the Arbitrator and the petitioners, in this petition, as such, were represented by the two Unions. The Arbitrator had decided the status of the workers of the Contractors, as per the reference of dispute and made the award. The respondent-Company and two Unions had ultimately filed the consent-terms in view of the settlement arrived at between the parties.

4. In view of the aforesaid facts and circumstances, in this petition, also, the only course which remains open is to relegate the parties to the legal redressal under the Industries Disputes Act, 1947, if any dispute so survives and if so advised. With this observation, the petition shall stand disposed of. Rule discharged. No order as to costs.

(J. N. BHATT, J.)

/shamnath